
BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY

WASHINGTON BOROUGH COUNCIL MINUTES

August 4, 2020

The regular meeting of the Borough Council of Washington, Warren County, New Jersey was held via ZOOM live stream at 7:00 P.M.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Also Present: Matthew Hall, Manager
Laurie A. Barton, Borough Clerk
Tara St. James, Attorney

Absent: Valle

Mayor Higgins led everyone in the flag salute.

Mayor Higgins read the following statement into record:

“The requirements of the Open Public Meetings Law, 1975, Chapter 231, have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the bulletin board, borough website and Facebook stating the time, place and purpose of the meeting as required by law.”

PUBLIC COMMENT

Hearing no public comment, motion made by Norris and seconded by Conry to close the public portion, all were in favor.

ORDINANCES 2nd reading

Motion made by Conry and seconded by Norris to open the public hearing for Ordinance 2020-09 all were in favor.

Hearing no public comment, motion made by Conry and seconded by Duchemin to close the public hearing, all were in favor.

Motion made by Conry and seconded by Duchemin to adopt Ordinance 2020-09.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

BOROUGH OF WASHINGTON
ORDINANCE 2020-09
AN ORDINANCE CREATING THE MOUNTAIN RESIDENCE OVERLAY ZONING
DISTRICT

WHEREAS, the Borough of Washington filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, captioned IMO Borough of Washington, Docket No. WRN-L-230-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, Washington Station Venture, LP and Washington Venture Investment, Ltd. (collectively, the “Washington Venture Entities” are the owners of Block 97, Lots 1, 3, and 4 and Block 97.01, Lot 1, which will be the subject of a subdivision application creating 3 lots: the Open Space Lot, the Residential Lot, and the Cemetery Lot; and

WHEREAS, pursuant to a Consent Order filed on or about November 3, 2015, the Washington Venture Entities are defendant-intervenors in the above-referenced Declaratory Judgment Action; and

WHEREAS, the Borough of Washington (the “Borough”) entered into Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018) (collectively hereinafter the “Settlement Agreements”) that determine the Borough’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

WHEREAS, the Settlement Agreements contemplate the sale of one lot consisting of approximately 80 acres to the Borough as dedicated open space (the “Open Space Lot”), the

development of approximately 35 acres as a residential development (the “Residential Lot”); the expansion of the existing cemetery on approximately 10 acres (the “Cemetery Lot”); and the development of a portion of either the Cemetery Lot or a 10,000 square foot independent lot for lease to construct a cell tower; and

WHEREAS, by Resolution dated September 9, 2019, the Borough Land Use Board subdivided the aforementioned parcels of land into the Open Space Lot, which is now designated as Block 97, Lot 1.03, and the Remainder Lot, which is now designated as Block 97, Lot 1.04. The Remainder Lot will subsequently be subdivided into the Residential Lot and the Cemetery Lot, as depicted on the attached Exhibit “A”.

WHEREAS, the zoning amendments herein are intended to implement the development of the Residential Lot as a 50-unit residential development consistent with the Settlement Agreements encompassing an area of approximately 35 acres in the event that public sewer service can be extended to the Residential Lot; and

WHEREAS, the revisions to the zoning map, and creation of the M-3 Mountain Residence Overlay Zoning District, are intended to follow the property lines of the newly created Residential Lot as depicted on **Exhibit A** attached hereto; and

WHEREAS, the Borough shall include the Residential Lot within the Town Center Designation and for purposes of Plan Conformance with the New Jersey Highlands Master Plan; and

WHEREAS, the Borough’s Land Use Board adopted a Housing Element and Fair Share Plan, that comprehensively provides for the creation of affordable housing in the Borough in a manner consistent with all applicable affordable housing statutes and regulations.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Washington, County of Warren, and State of New Jersey, as follows:

Section 1. Section 94-5 of the Code of the Borough of Washington (the “Code”) entitled “Definitions” is amended to add the following definitions:

BASEMENT- A half-story space partly underground but having not more than 1/2 of its floor-to-ceiling height above the average grade as defined in Building Height. A basement shall be counted as a story if its ceiling is four or more feet above the average grade as defined in Building Height.

STORY - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above, excluding spaces defined as “Half Story.”

STORY, HALF – For an attic space, a habitable space that has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet above the attic floor is not more than one-third the area of the next floor below. A half story shall also include a basement that is accessible from grade. A half story shall be counted as a full story if it does not meet the definition of half story as defined herein. A single-family dwelling may have a habitable attic or a half-story basement, but not both.

Section 2. Section 94-70 of the Code entitled “Enumeration of Districts” is amended and supplemented to add the MO-3 Mountain Overlay Residence District.

Section 3. Section 94-71 entitled “Zoning Map, schedules and performance standards” is amended such that the boundary of the Mountain Overlay Residence District (MO-3) District shall be applied to the parcel of land depicted as the Residential Lot on Exhibit “A,” which is a portion of what is now known as Block 97, Lot 1.04.

Section 4. Section 94-74.1 is hereby added as follows:

§94-74.1 MO-3 Mountain Overlay Residence District.

A. Purpose. The Mountain Overlay Residence District is created to provide for small-lot residential uses connected to public water and sewer to comply with the requirements and terms of Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018 and on June ___, 2020) (collectively hereinafter the “Settlement Agreements”). The ordinance creates design and bulk standards to ensure that single-family housing in this zone is developed in a manner that is sensitive to the character of the surrounding area and environment.

B. Principal Permitted uses.

(1) Single-family detached dwellings

(3)

C. Accessory Uses

(1) Home offices and instruction for musical instruments on one-to-one basis not entailing more than one student at any one time for one teacher in a residence.

(2) Accessory uses, buildings, and structures customarily incidental to the principal permitted use

D. Maximum Number of Lots. There shall be no more than 50 single-family lots permitted on the Residential Lot.

E. Tract Area. The entire Residential Lot shall be approximately 35 acres, consistent with the Settlement Agreements and all amendments thereto.

F. Common Open Space.

(1) A minimum of 25% of the Residential Lot shall be designated as common open space. Common open space may include stormwater management facilities and other non-buildable areas such as wetlands or stream buffer areas.

(2) Open space not dedicated to the Borough shall be assigned for ownership and maintenance to an organization provided for this purpose by the developer. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization which is conceived and established to own and maintain the open space for the benefit of such development and which thereafter shall not be dissolved or disposed of any of its open space without first offering to dedicate the same to the Borough. The developer shall be responsible for the maintenance of any such open space until such time as the organization established for its ownership and maintenance shall be formed and functioning and shall be required to furnish a performance guaranty for such maintenance for a period of two years after the final certificate of occupancy is issued.

All documents pertaining to any organization established to own and maintain common open space shall be subject to review and approval of the Borough Attorney, who shall require that all portions thereof be recorded as covenants running with the land.

(3) Failure to maintain open space. In the event that the organization shall fail to maintain the open space in reasonable order and condition, the Zoning Officer shall serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization or the owner has failed to maintain the open space in reasonable condition and demanding that such deficiencies be cured within 35 calendar days. This notice shall also state the date and place of a hearing thereon, which shall be held within 15 days of the date of the notice. At such hearing, the board which granted approval of the development may

modify the terms of the original notice as to deficiencies and may give an extension of time not to exceed 65 days within which they shall be remedied. If the deficiencies set forth in the original notice or in the modification thereof shall not be remedied within 35 days of the date of the notice or within the period of any extension granted, the Borough, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners and is accepted by the Borough.

G. Area yard and bulk requirements (principal permitted uses).

Use Type	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Building Height (feet) ¹	Maximum Lot Coverage (percent)	Maximum Building Coverage (principal building)
Detached single-family dwelling	7,000 sq. feet	60	25	10; 20 feet combined or 30% of the lot width, whichever is greater	30 feet if the rear yard is backs up to a residential lot; 25 feet if the rear yard backs up to common open space or publicly preserved open space.	2 ½ stories or 35 feet.	50%	30%

¹ In no event shall the building height exceed 35 feet/2.5 stories along any façade facing a road. Basement garages shall be permitted provided the garage doors are located along the building’s side or rear facade. Walkout basements shall be permitted provided it meets the definition of half-story and basement.

.H. Accessory Uses and Structures area yard and bulk requirements

(1) The minimum distance of any accessory building or structure, other than an uncovered deck or patio, constructed of any material attached to a principal building is part of the principal building and shall adhere to the yard setback requirements for the principal building.

(2) The minimum distance of any accessory building or structure, other than an uncovered deck or patio, to a property line or to a building on the same lot shall be five feet.

(3) The minimum distance of an uncovered deck or patio less than 18 inches above grade in height to a property line shall be eight feet.

(4) The minimum distance of any uncovered deck or patio more than 18 inches above grade in height to a property line shall be ten feet.

(5) Height and area. Accessory buildings or structures shall not exceed 15 feet in height and may not occupy an area totaling more than 25% of a required rear yard.

(6) Location. An accessory building or structure may be erected in the side or rear yard only. If erected on a corner lot, it shall be set back from the side street to comply with the setback line applying to the principal building.

.I. Additional Requirements

(1) As part of any subdivision and / or site plan application, an environmental impact report shall be submitted and considered by the Land Use Board in compliance with Code Section 94-46, however, an environmental impact statement shall not be required for the initial Minor Subdivision to create the Open Space Parcel. Environmental elements relating to soil

erosion, preservation of trees, topography, soil and animal life shall be considered, and the design of the plan shall minimize any adverse impact on these elements.

(2) Each exterior face of a single-family dwelling shall include windows and the windows shall not be less than 4% of the building face.

(3) Connections to public water and sanitary sewer are required.

J. If the proposed residential units will be served by individual septic systems, the bulk standards set forth herein shall not apply and the underlying Mountain District (M-3) Zoning without the cluster option shall apply. In no event shall a package treatment plant be permitted.

K. The residential development shall be required to make a financial contribution equal to 1.5% of equalized assessed value to be used for affordable housing pursuant to the Borough's development fee ordinance, set forth at Article IX Development Fees of the Borough Code §94-94 through §94-100.

I. L. Access to the Residential Lot shall only be permitted via Nunn Avenue. Emergency access only can be provided via the adjacent Cemetery Lot pursuant to an access easement, which restriction shall be a condition of any subdivision or site plan approval. In the event the adjacent cemetery does not purchase the Cemetery Lot, and/or the proposed cell tower cannot be accessed through the Cemetery Lot, access to the cell tower may be provided through the Residential Lot, but such access shall not serve the existing or proposed cemetery.

M. Streets and Sidewalks. All roads within the residential development in the MO-3 Zone shall be private and comply with Residential Site Improvement Standards (RSIS), unless waivers have been granted by the Borough Land Use Board.

N. Compliance with Borough Ordinances. All existing Borough ordinances, including but not limited to Chapter 57 Stormwater Management, Chapter 61 Numbering of Buildings,

Chapter 73 Soil Removal, Chapter 83 Trees, Chapter 47 Garbage, Rubbish, and Refuse, and Chapter 75 Streets and Sidewalks shall apply. However, Chapter 75, Article VII entitled “Street Construction Standards” does not apply to private roads. Additionally, Chapter 83, entitled “Trees” only applies to trees located within the public right-of-way, a public highway, or public place.

Section 5. Section 94-74 M-3 Mountain District is hereby amended as follows:

§94-74E entitled “Cluster Option” is deleted in its entirety.

§94-74F entitled “Area and yard bulk requirements for cluster option (principal permitted use) is deleted in its entirety.

§94-74G Area and yard bulk requirements (accessory uses) is deleted in its entirety.

§94-74H entitled “Affordable Housing” is deleted in its entirety.

Section 6. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 7. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 8. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Land Use Board of the Borough of Washington for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with

the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 9. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this section, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 10. This Ordinance shall take effect upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing thereof with the Warren County Planning Board pursuant to N.J.S.A. 40:55D-16.

Section 11. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Motion made by Conry and seconded by Cox to open the public hearing for Ordinance 2020-10 all were in favor.

Hearing no public comment, motion made by Conry and seconded by Duchemin to close the public hearing, all were in favor.

Motion made by Conry and seconded by Noone to adopt Ordinance 2020-10.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

**BOROUGH OF WASHINGTON
ORDINANCE 2020-10**

AN ORDINANCE CREATING THE CEMETERY ZONING DISTRICT

WHEREAS, the Borough of Washington filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, captioned IMO Borough of Washington, Docket No. WRN-L-230-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, Washington Station Venture, LP and Washington Venture Investment, Ltd. (collectively, the “Washington Venture Entities” are the owners of Block 97, Lots 1, 3, and 4 and Block 97.01, Lot 1, which will be the subject of a subdivision application creating 3 lots: the Open Space Lot, the Residential Lot, and the Cemetery Lot;

WHEREAS, pursuant to a Consent Order filed on or about November 3, 2015, the Washington Venture Entities are defendant-intervenors in the above-referenced Declaratory Judgment Action; and

WHEREAS, the Borough of Washington (the “Borough”) entered into Settlement Agreements with Fair Share Housing Center on December 10, 2018 and with the Washington Venture Entities on October 9, 2018 (as amended on December 18, 2018) (collectively hereinafter the “Settlement Agreements”) that determine the Borough’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

WHEREAS, the Settlement Agreements contemplate the sale of one lot consisting of approximately 80 acres to the Borough as dedicated open space (the “Open Space Lot”), the development of approximately 35 acres as a residential development (the “Residential Lot”); the

expansion of the existing cemetery on approximately 10 acres (the “Cemetery Lot”); and the development of a portion of either the Cemetery Lot or a 10,000 square foot independent lot for lease to construct a cell tower; and

WHEREAS, by Resolution dated September 9, 2019, the Borough Land Use Board subdivided the aforementioned parcels of land into the Open Space Lot, which is now designated as Block 97, Lot 1.03, and the Remainder Lot, which is now designated as Block 97, Lot 1.04. The Remainder Lot will subsequently be subdivided into the Residential Lot and the Cemetery Lot, as depicted on the attached Exhibit “A”.

WHEREAS, the zoning amendments herein implement the development of the Cemetery Lot as an expansion of the existing Washington Cemetery in compliance with the Settlement Agreements encompassing an area of not more than 10 acres; and

WHEREAS, the Washington Cemetery has operated within the Borough for many years; however, cemeteries are not a permitted use in any zoning district within the Borough; and

WHEREAS, the revisions to the zoning map, and creation of the Cemetery Zoning District, are intended to follow the property lines of the newly Cemetery Lot as depicted on **Exhibit A**.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Washington, County of Warren, and State of New Jersey, as follows:

Section 1. Section 94-70 of the Code of the Borough of Washington (the “Code”) entitled “Enumeration of Districts” is amended and supplemented to add the Cemetery District.

Section 2. Section 94-71 entitled “Zoning Map, schedules and performance standards” is amended such that the boundary of the Cemetery District shall be applied to the parcel of land

depicted as the Cemetery Lot on Exhibit “A,” which is a portion of what is now known as Block 97, Lot 1.04.

Section 3. Section 94-87 is hereby added as follows:

§94-87 C-3 Cemetery District

A. Purpose. The Cemetery District is created to provide for cemetery use of a not more than 10 acre tract of land within the Borough in accordance with the requirements and terms of Settlement Agreements entered into on October 9, 2018 (amended on December 18, 2018 and on June ____, 2020) between the Borough and Washington Station Venture, LP and Washington Venture Investment, Ltd. and a Settlement Agreement entered into on December 10, 2018 with Fair Share Housing Center (collectively, the “Settlement Agreements”). The ordinance creates design and bulk standards to ensure that the cemetery expansion in this zone is developed in a manner that is sensitive to the character of the surrounding area and environment.

B. Principal Permitted uses.

- (1) Cemeteries.
- (2) Cell towers.
- (3)

C. Accessory Uses

- (1) Mausoleums
- (2) Buildings for the sole purpose of cemetery administration and maintenance
- (3) Accessory uses customarily incidental to the above permitted uses

D. Cemeteries shall be licensed by the New Jersey Division of Consumer Affairs.

E. Cemetery Design Standards.

(1) Site plan approval of the cemetery shall be required identifying the locations of the burial site areas and proposed structures.

(3) Drainage shall not create erosion or flooding of adjacent lands and shall conform to stormwater management requirements found in Chapter 57 of the Revised General Ordinances of the Borough of Washington as well as Stormwater Management Regulations set forth by the State of New Jersey.

(4) Lighting. Since the cemetery is only open from dawn until dusk, no lighting shall be permitted.F. Impervious Coverage (Cemetery Use Only). The maximum impervious coverage associated with access/circulation drives, mausoleums, and maintenance sheds shall not exceed 25%. Grave monuments, markers and headstones shall not be included in the calculation of total impervious cover in determining conformance with this ordinance standard.

G. Perimeter Buffering (Cemetery use only). A minimum perimeter buffer shall be 50 feet except where adjacent to public open space. Existing vegetation within this buffer area shall be preserved and supplemented with evergreen plantings and native plants as needed to effectively screen improvements on the cemetery property. Conservation easements shall be provided for the buffer areas. There shall be no access drives permitted within the buffer area, other than to cross the buffer area to provide access to the Cemetery Lot.

H. Area yard and bulk requirements (principal and accessory permitted uses and structures).

(1) Cemeteries.

(a) Maximum Lot Area. 10 acres

(b) Maximum Building Height. 25 feet.

(c) Setback. 50 feet. No principal or accessory structures shall be constructed within a perimeter buffer area.

(2) Cell Towers.

(a) Maximum Lot Area. 10,000 square feet. In the event the cell tower is not located on a separate lot, cell towers shall only occupy up to 10,000 square feet in area, consistent with the Settlement Agreements.

(b) Maximum Height of Tower. If there are two carriers located on the tower, 125 feet. If there are three or more carriers located on the tower, 150 feet, measured from the proposed elevation at the base of the tower including any structures or antennae supported by the tower.

(c) Equipment cabinets and other structures within the compound enclosure that are installed by the various carriers occupying the tower shall not exceed a height of 15 feet. Equipment storage buildings or cabinets shall comply with all building codes applicable to the use.

(d) The tower compound shall be enclosed by security fencing not less than six (6) feet nor more than eight (8) feet in height. Barbed wire fencing is prohibited. It is recommended the fencing be decorative. Proposed enclosure fencing shall incorporate appropriate anti climbing features unless waived by the Land Use Board as part of the Site Plan review process.

(e) Proposed development plans for tower facilities shall incorporate a 10 - foot wide landscape buffer that provides an effective screen of the compound area from adjacent residential properties. Landscaping shall be installed on the outside of the fence and consist of existing vegetation and shall be enhanced by evergreen plantings. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible to enhance the proposed buffer.

(g) Provisions for co-location for additional antennae or equipment for other wireless providers is required.

I. Access to a separate lot created for cell tower use shall be permitted through the adjacent Residential Lot, only with a showing that access cannot reasonably be provided through the Cemetery Lot. Access to any Property currently or intended to be used as a cemetery shall only be permitted via extension of existing driveways servicing the cemetery and shall not be permitted through the adjacent Residential Lot. In no event shall access to an existing or proposed cemetery be permitted through the Residential Lot. A minimum driveway width of fifteen (15) feet shall be provided for driveways servicing either a cell tower or cemetery use, subject to review and approval by emergency personnel.

J. Cemetery Operation.

(1) The hours of operation of the cemetery shall be limited to dawn until dusk.

(2) If the facility seeks an open burning of any materials within the cemetery it shall apply to the Fire Official for a Type 1 Open Burn Permit in compliance with the New Jersey Uniform Fire Code, N.J.A.C. 5:70-2.7 et seq.

(3) The facility shall be permitted to perform traditional and customary religious practices to the extent permitted by Federal, State, County and local law and regulations.

(4) The following matters, things, conditions or acts, and each of them, are hereby declared to be a nuisance and injurious to the health, safety, or welfare of the inhabitants of the Borough of Washington:

(a) Pollution, or the existence of a condition or conditions which cause or threaten pollution, of any waters within the Borough of Washington in such manner as to cause or threaten injury to any of the inhabitants of the Borough of Washington in their health, safety, or welfare either in their person or property.

(b) The escape into the open air from any stack, vent, chimney or any entrance to the open air, or from any fire into the open air, of such quantities of smoke, soot, fly ash, dust fumes, vapors, mists or gases as to cause injury, detriment or serious annoyance to the inhabitants of the Borough of Washington or endanger their comfort, repose, health, safety or property.

(c) The existence or presence of any water or other liquid in which mosquito larvae breed or exist.

(d) The existence or presence of any accumulation of garbage, refuse, or animal or vegetable matter which may attract flies or to which flies may have access or in which fly larvae or pupae may breed or exist.

(e) Depositing, accumulating or maintaining any matter or thing which serves as food for insects, rodents and other animals and to which they may have access or which serves as or constitutes a breeding place for insects or rodents in or on any land, premises, building or other place.

(f) Any act, matter, thing or condition which is or may become detrimental or a menace to the health of the inhabitants of the Borough of Washington or which is or may become an annoyance or interfere with the comfort or general well-being of the inhabitants of the Borough.

Section 4. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 5. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 6. After introduction, the Borough Clerk is hereby directed to submit a copy of the Ordinance to the Land Use Board of the Borough of Washington for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 7. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Warren County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this section, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 8. This Ordinance shall take effect upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing thereof with the Warren County Planning Board pursuant to N.J.S.A. 40:55D-16.

Section 9. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this

ORDINANCE 1st- Reading

Motion made by Conry and seconded by Norris to approve Ordinance 2020-11 on first reading with a public hearing scheduled for September 1, 2020.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.
Ayes: 6 Nays: 0
Motion passes.

ORDINANCE 2020-11

AN ORDINANCE OF THE BOROUGH OF WASHINGTON AMENDING THE SALARY ORDINANCE FOR CERTAIN POSITIONS AND ADDING CERTAIN TITLES AS FOLLOWS

WHEREAS, pursuant to changes to state minimum wage requirements, various collective bargaining agreements, and the reorganization of certain positions, it has become necessary to adjust certain salary ranges and add various titles;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, that the following salary range(s) be amended under “Schedule A – Full-Time Classified”:

<u>SCHEDULE A – FULL-TIME CLASSIFIED</u>										
<u>POSITION TITLE</u>						<u>SALARY OR WAGE RANGE</u>				
Clerk 1 (NC) Shared Services Stipend						\$7,500				AN

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, that the following salary range(s) be amended under “Schedule C – Unclassified Service”:

<u>SCHEDULE C – UNCLASSIFIED SERVICE</u>										
<u>POSITION TITLE</u>						<u>SALARY OR WAGE RANGE</u>				
Municipal Department Head						\$5,000	-	\$90,000		AN

SECTION 1. Salaries herein shall be payable at the rate fixed in equal installments twice a month. Wages shall be payable twice a month. Any annual salary may be re-calculated to an hourly wage for any position unless restricted by collective bargaining agreement. Any and all fees received by officials and employees of the Borough of Washington shall be paid unto the municipality.

SECTION 2. Any salary and wage ordinance adopted prior to the adoption of this ordinance with provisions inconsistent with the provisions of Section 1 of this ordinance shall, to the extent of any inconsistency and only to the extent of the inconsistency, be repealed.

SECTION 3. In the event the position becomes vacant or no figure is listed, then the figures noted in the column with the heading "salary or wage range" shall be utilized by the appointing authority and any salary or wage paid within this range shall be deemed appropriate and valid.

SECTION 4. A public works employee who works eight hours in one day out of title in a job classification with a higher salary or wage range shall be entitled to additional compensation for that day at the rate of his or her current rate of pay plus ten (10) percent.

SECTION 5. An employee who has medical coverage under a spouse's health benefit plan (not including the NJ SHEBP) and waives participation in the Borough of Washington health benefits program shall be compensated at the rate of THREE THOUSAND DOLLARS (\$3,000) PER ANNUM pro-rated to compensate the employee for only those pay periods when the Borough is no longer obligated to make health benefit payments.

SECTION 6. Any employees to be paid a stipend for CPWM shall have the stipend added to their base salary (pensionable earnings) to be paid twice per month. Any other stipends shall be paid twice a month, but are considered extra compensation and are not to be included in the base salary for pension purposes.

SECTION 7. The rates contained herein shall become effective immediately.

Motion made by Conry and seconded by Duchemin to approve Ordinance 2020-12 on first reading with a public hearing scheduled for September 1, 2020.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.
Ayes: 6 Nays: 0
Motion passes.

ORDINANCE 2020-12

AN ORDINANCE REPEALING § 3-55.1 ET SEQ. OF THE ORDINANCES OF THE BOROUGH OF WASHINGTON

WHEREAS, the Borough of Washington Council (“Borough Council”) has evaluated the continued need for a Recreation Commission; and

WHEREAS, the Borough Council has determined that there is no longer a need for a Recreation Commission and that it would be in the best interests of the Borough to establish a Recreation Committee to effectively oversee the recreational needs of the residents of the Borough; and

WHEREAS, the Borough Council is now desirous of dissolving the Recreation Commission and establishing in its place a Recreation Committee.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, as follows:

Section 1

Article VIIIA of the Borough Code is amended to read as follows: “Recreation Committee”

Article VIIIA §3-55.1 to §3-55.10

Article VIIIA §3-55.1 to §3-55.9 of the Borough Code is repealed in its entirety, and

the following is adopted in its place and stead as follows:

§ 3-55.1 Committee created; title; membership; term; vacancies;

- A. Pursuant to the authority vested in the Committee of the Borough of Washington, there is hereby established a Recreation Committee to be known as the "Borough of Washington Recreation Committee" which shall consist of at least five (5) members, but not more than nine (9) members, as determined and appointed by the Mayor upon the advice and consent of the Borough Council, one of whom shall be a member of the Borough Council and one of whom shall be a member of the Board of Education. All members of the Borough of Washington Recreation Committee shall be residents of the Borough of Washington. The members of said Recreation Committee shall serve without compensation.
- B. The Recreation Committee shall annually designate one of the members to serve as Chairman and presiding officer of the Recreation Committee. The terms of office of the first Recreation Committee members shall be for one, two or three years and thereafter, the terms of office of Recreation Committee members shall be for staggered three year terms. The members of the Recreation Committee shall serve at the will of the Borough Council. Borough Council may remove any member of the Recreation Committee with or without cause, upon written notice and after a hearing at which the member shall be entitled to be heard in person by the Borough Council.
- C. The Recreation Committee may adopt bylaws for its administration and establish rules and regulations for its activities; provided, however, that such bylaws, rules, and regulations shall be subject to the approval of the Borough Council.
- D. A vacancy on the Recreation Committee occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

§ 3-55.2 Powers, Duties and Activities

The Recreation Committee shall provide for recreational opportunities for the residents of the Borough of Washington. The Recreation Committee shall make nonbinding recommendations to the governing body as to community events, as well as with respect to enhancements and improvements to any Borough owned property for recreational activities. These nonbinding recommendations may consist of fundraising, operations, crowd control, costs and other activities related to the management of community recreational events or projects. The Recreation Committee shall also perform the following functions:

- A. In conjunction with and under the supervision of Borough Manager, supervise methods and arrangements for the proper maintenance and care of the lands and improvements on the Borough Recreation fields and parks and all structures thereon now or hereafter owned by the Borough.
- B. Advise the Borough Manager in the coordination of programs, the development of new

initiatives, and the management of existing programs

- C. Recommend to the Borough Council a schedule of fees and charges to be made for the use of playground or recreational places for utilizing facilities, use of purchase of equipment and uniforms, participating in organized sports and activities and for such other purposes as may be deemed reasonable and proper by the Borough Council.
- D. Maintain communications with recreational organizations in order to coordinate the use of facilities, and establish consistent policies and cooperation among various groups.
- E. Develop guidelines for the recreational use of playgrounds and recreational facilities in the Borough, consistent with rules governing the use thereof as may be adopted from time to time by the Mayor and Borough Council.
- F. Encourage and plan special entertainment activities for all the citizens of the Borough throughout the year.
- G. Maintain communication with other municipal bodies to minimize duplication of efforts and to foster joint programs.
- H. The Recreation Committee may make recommendations to the Borough Manager as to the establishment of any new staff positions it deems necessary for the successful operation of the Borough's recreation programs. The responsibility for the hiring of such employees shall be vested with the Borough Manager. Any such employees shall be under the immediate supervision of the Borough Manager.
- I. The Recreation Committee shall in all respects operate in accordance with the administrative procedures and regulations of the Code of the Borough of Washington. However, the Recreation Committee and its members shall have no power to take any action on behalf of the Borough of Washington or to take any other action, other than what is set forth within this subsection.
- J. The Recreation Committee shall also study such matters as may be referred to it by the Manager and/or Mayor and Borough Council and shall report its findings and conclusions thereon in writing to the Governing Body as soon as reasonably possible.

§ 3-55.3 Records, Annual Report and Appropriation of Funds

- A. The Recreation Committee shall keep records of its meetings and activities and shall make an annual report to the Borough Council.
- B. In November of each year, the Recreation Committee and the Recreation Leader/Director shall prepare and submit to the Borough Manager a proposed budget for the Borough's recreation program.
- C. In considering the recommendations made by the Recreation Committee, the Borough Council and/or Manager, as appropriate, shall have the full and complete authority and

power to expend the monies raised and/or designated for recreational purposes.

Section 3

The previously established Recreation Commission of the Borough of Washington is hereby deemed eliminated and dissolved, and all offices and membership in same which have been created are hereby revoked and dissolved. Any authority or power any person, or persons, had or was otherwise authorized by the existence of the Recreation Commission is hereby revoked.

Section 4

This ordinance shall take effect immediately after passage.

Section 5

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

RESOLUTIONS

Motion made by Conry and seconded by Noone to adopt Resolution 2020-116.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RESOLUTION #2020-116

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on December 6, 2019 to US Bank Cust Pro Cap 8, 50 S 16th Street, Suite 2050, Philadelphia, PA 19102, in the amount of \$505.22 for taxes or other municipal liens assessed for the year 2018 in the name of Mueller, Elizabeth L as supposed owner, and in said assessment and sale were described as 80 Park Ave. Block 83 Lot 4, which sale was evidenced by Certificate #19-00030; and

WHEREAS, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 7-21-20 and before the right to redeem was cut off, as provided by law, Reverse Mortgage Solutions, Inc., claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Pro Cap 8 by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$9,568.65 which is the amount necessary to redeem Tax Sale Certificate #19-00030.

NOW THEREFORE BE IT RESOLVED, on this 4th day of August 2020 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to US Bank Cust Pro Cap 8, 50 S 16th Street, Suite 2050, Philadelphia, PA 19102 in the amount of **\$9,568.65** (This amount consists of \$9,568.65 Certificate Amount redeemed).

BE IT FURTHER RESOLVED, that the Tax Collector is authorized to cancel this lien on Block 83 Lot 4 from the tax office records.

Motion made by Noone and seconded by Conry to adopt Resolution 2020-1117.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RESOLUTION #2020-117

**A RESOLUTION TO REFUND OVERPAYMENT OF 1st & 2nd QUARTER 2020
REAL ESTATE TAXES DUE TO EXEMPT STATUS**

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$2,599.41 on 1st Quarter 2020 Taxes due to a tax payment from Lereta Tax Service and \$2,599.41 on the 2nd Quarter 2020 Taxes due to a payment from Nationstar Mortgage being applied on property located at 10 Oak Ridge Rd., also known as Block 44.01 Lot 7 and assessed in the name of Herring, William Spencer; and

WHEREAS, the property owner has qualified for Exempt Veteran Status in the year 2020 as of December 23, 2019, which has created the overpayment; and

WHEREAS, the Tax Collector has received a written request from Corelogic Tax Service for a refund, which will be disbursed back to Mr. Herring; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector to refund the amount of \$5,198.82 payable to: Corelogic Returns & Refunds, PO Box 9202, Coppell, Texas 75019.

Motion made by Conry and seconded by Cox to adopt Resolution 2020-118.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RESOLUTION 2020-118

A RESOLUTION AUTHORIZING THE ADJUSTMENT OF

**A BOROUGH'S SEWER SERVICE CHARGE
DUE TO DISCONNECTION FROM THE SEWER SYSTEM**

WHEREAS, according to the Treasurer's records, borough properties located at 10-12 N. Jackson Avenue and 14 N. Jackson Avenue were disconnected from the Washington Borough Sewer system on July 15, 2020 and;

WHEREAS, the quarterly sewer invoice was being billed without interruption for the 2020 billing cycle and;

WHEREAS, the Borough Treasurer's office has received a written notification from Sewer Plant Manager, Kevin Shoudt that the sewer lines were capped off. It was confirmed that the properties at 10-12 N. Jackson Avenue and 14 N. Jackson Avenue were disconnected from the Washington Borough Sewer system. The homes will be demolished in order to start the construction of the CVS building. The business will be reconnected to the main sewer line upon completion.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to adjust the sewer account #854-0 and #855-0 with a zero balance which reflects the amount due at the time the sewer connection was capped.

<u>BLOCK/LOT</u>	<u>PROPERTY OWNER/ PROPERTY LOCATION</u>	<u>FINAL BAL. AFTER CAP</u>
26/6	Bibko, c/o Cindy Coty 14 N. Jackson Avenue	\$ 0.00
26/7	Bibko, c/o Cindy Coty 10-12 N. Jackson Avenue	\$ 0.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to adjust sewer balance on the above property location.

Motion made by Conry and seconded by Noone to adopt Resolution 2020-119.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RESOLUTION 2020-119

**RESOLUTION CONSENTING TO THE ASSIGNMENT OF INTERESTS IN ALL
CURRENT SERVICES CONTRACT WITH CP ENGINEERS NJ LLC FOR
MUNICIPAL WASTEWATER ENGINEERING SERVICES**

WHEREAS, the Borough Council of the Borough of Washington has a need to contract the services of a Wastewater Engineering firm as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

WHEREAS, the Purchasing Agent has certified that the costs of this contract may or will exceed \$17,500; and

WHEREAS, for budgetary purposes, the Borough Council of the Borough of Washington would like to have this contract reflect a not to exceed amount of the 2020 adopted budget amount, excluding any escrow related services and;

WHEREAS, CP Engineers, LLC has changed to an independent stand-alone company named CP Engineers NJ, LLC; and

WHEREAS, CP ENGINEERS NJ LLC has completed and submitted a Business Entity Disclosure Certification which certifies that CP Engineers NJ LLC has not made any reportable contributions to a political or candidate committee in the Borough of Washington in the previous one year, and that the contract will prohibit CP Engineers NJ LLC from making any reportable contributions through the term of the contract; and

NOW THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Washington to consent to the assignment of the interests of CP Engineers, LLC in all current contracts to CP Engineers NJ, LLC effective July 8, 2020; and

BE IT FURTHER RESOLVED that an updated Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED that notice of this appointment will be published as required by law within ten days of the passage of this resolution; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Chief Financial Officer and CP Engineers NJ, LLC

Motion made by Conry and seconded by Noone to adopt Resolution 2020-120.

Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RESOLUTION 2020-120

A RESOLUTION AUTHORIZING THE RELEASE OF PERFORMANCE BOND POSTED BY AUTOZONE NORTHEAST, LLC AND AUTHORIZING CLOSURE OF ESCROW ACCOUNTS HELD IN TRUST BY THE BOROUGH OF WASHINGTON

WHEREAS, Marilyn Boyd, representative of Autozone Northeast LLC has

requested the Performance Bond No. 106701760 dated March 28, 2017 issued by Travelers Casualty and Surety Company of America, in the amount of \$337,064.52 be released;

WHEREAS, all work has been satisfactorily completed and the COAH obligations have been met by Autozone Northeast LLC;

WHEREAS, Autozone Northeast LLC had escrow Account #7760883541, which has a current balance of \$.00 and has escrow Account #7760883509 with a balance of \$2.00;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Municipal Treasurer is hereby authorized to return the Performance Bond, close both escrow accounts, and return the remaining funds from Account #7760883509 to Autozone Northeast LLC.

OLD BUSINESS

Mayor Higgins inquired about the hours of drinking establishments and asked if everything was working out. Manager Hall stated that no problems have been reported.

Mayor Higgins stated at the next meeting to review normal hours. Manager Hall stated he will reach out to the Chief to get a full report on anything that has happened to reevaluate the hours.

VOUCHERS AND CLAIMS

Motion made by Conry seconded by Duchemin to pay vouchers and claims.

ROLL CALL: Roll Call: Conry, Cox, Duchemin, Noone, Norris and Higgins.

Ayes: 6 Nays: 0

Motion passes.

RECAP

Manager Hall recapped the following:

- Reviewed events from today's storm. Some trees down on wires. Roads will be closed for a short time due to storm damage.
- Fire Department still pumping out basements
- There are 1345 residents still without power.
- DPW worked on a 100-year-old terracotta storm drainage pipe in the borough.

COUNCIL REMARKS

Councilman Norris gave the following remarks:

- Thanked the fire, dpw and police for doing a good job. Hope everyone is keeping safe and wear a mask.

Councilwoman Cox gave the following remarks:

- Offered to Manager Hall any help if he would need it considering his email and offered same to the Clerk and for everyone's kids to remain safe.
- Thanked the dpw for getting a dead animal out of the road.
- Keep social distancing.

Councilwoman Duchemin gave the following remarks:

- Hopes that everyone is staying safe and keep wearing the masks.
- Asked everyone to look at the post on Facebook regarding community diversity initiative.

Councilwoman Noone gave the following remarks:

- Thanked the police for coming to the farmers market and helping with cross walks and for advertising the market on their Facebook feed.
- Thanked Freeholder Kern for posting that a representative will be at the market from the Census. Thanked everyone for coming out to the farmers market.

Deputy Mayor Conry gave the following remarks:

- Asked if the police can look into things that have gone missing on Park Avenue, items being stolen off of lawns.
- Stated that any businesses who have questions on opening back up to reach out to Manager Hall or Mel Thiel at the BID.
- Everyone wear masks and stay safe.

Mayor Higgins gave the following remarks:

- Highlighted a recent tragic accident involving Marines with an amphibious vehicle while in training.
- Recapped the library board meeting that was held last night, loss of revenue was topic of discussion.
- Governor Murphy extended the pandemic emergency another 30 days. Gathering of people cut to 25% with a maximum of 25 people which includes house parties.

Manager Hall gave the following remarks:

- Thanked the new owners of the CVS that are in the process to demolish two houses next to the old Krausers. The fire department was able to go in to do live drills in those buildings. Hampton Borough also joined in on the valuable live training for the members of the fire departments.

ADJOURNMENT

Hearing no further business, a motion was made by Valle seconded by Conry to adjourn the meeting at 7:50 pm.

Ayes: 7: Nays: 0
Motion Carried.

Mayor David Higgins

Laurie A. Barton, Borough Clerk